

REFERENCE TITLE: vehicle emissions testing; onboard diagnostics

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HB 2725

Introduced by  
Representative Nichols

AN ACT

AMENDING SECTION 49-542, ARIZONA REVISED STATUTES; RELATING TO VEHICLE  
EMISSIONS TESTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 49-542, Arizona Revised Statutes, is amended to read:

49-542. Emissions inspection program: powers and duties of director: administration: periodic inspection: minimum standards and rules: exceptions: definition

A. The director shall administer a comprehensive annual or biennial emissions inspection program which shall require the inspection of vehicles in this state pursuant to this article and applicable administrative rules. Such inspection is required in area A and area B, for those vehicles owned by a person who is subject to section 15-1444 or 15-1627 and for those vehicles registered outside of area A or area B but used to commute to the driver's principal place of employment located within area A or area B. Inspection in other counties of the state shall commence ~~upon~~ **ON** application by a county board of supervisors for participation in such inspection program, subject to approval by the director. In all counties with a population of three hundred fifty thousand or fewer persons according to the most recent United States decennial census, except for the portion of counties that contain any portion of area A, the director shall as conditions dictate provide for testing to determine the effect of vehicle related pollution on ambient air quality in all communities with a metropolitan area population of twenty thousand persons or more according to the most recent United States decennial census. If such testing detects the violation of state ambient air quality standards by vehicle related pollution, the director shall forward a full report of such violation to the president of the senate, the speaker of the house of representatives and the governor.

B. The state's annual or biennial emissions inspection program shall provide for vehicle inspections at official emissions inspection stations or at fleet emissions inspection stations. Each inspection station in area A shall employ at least one mechanic who is available during the station's hours of operation to provide technical advice and assistance for persons who fail the emissions test. The director may enter into agreements with the department of transportation or with county assessors for the use of official emissions inspection stations for the purpose of conducting vehicle registrations. An official or fleet emissions inspection station permit shall not be sold, assigned, transferred, conveyed or removed to another location except on such terms and conditions as the director may prescribe.

C. Vehicles required to be inspected and registered in this state, except those provided for in section 49-546, shall be inspected, for the purpose of complying with the registration or reregistration requirement pursuant to subsection D of this section, in accordance with the provisions of this article no more than ninety days prior to each reregistration expiration date. A vehicle may be submitted voluntarily for inspection more than ninety days before the reregistration expiration date on payment of the prescribed inspection fee. Such voluntary inspection shall not be considered

1 as compliance with the registration or reregistration requirement pursuant to  
2 subsection D of this section.

3 D. A vehicle shall not be registered or reregistered until such  
4 vehicle has passed the emissions inspection, the tampering inspection  
5 prescribed in subsection G of this section and the liquid fuel leak  
6 inspection prescribed in subsection Z of this section or has been issued a  
7 certificate of waiver. A certificate of waiver shall only be issued one time  
8 to a vehicle after January 1, 1997. If any vehicle to be registered or  
9 reregistered is being sold by a dealer licensed to sell motor vehicles  
10 pursuant to title 28, the cost of any inspection and any repairs necessary to  
11 pass the inspection shall be borne by the dealer. A dealer who is licensed  
12 to sell motor vehicles pursuant to title 28 and whose place of business is  
13 located in area A or area B shall not deliver any vehicle to the retail  
14 purchaser until the vehicle passes any inspection required by this article or  
15 the vehicle is exempt under subsection J of this section.

16 E. On the registration or reregistration of a vehicle which has  
17 complied with the minimum emissions standards pursuant to this section or is  
18 otherwise exempt under this section, the registering officer shall issue an  
19 air quality compliance sticker to the registered owner which shall be placed  
20 on the vehicle as prescribed by rule adopted by the department of  
21 transportation or issue a modified year validating tab as prescribed by rule  
22 adopted by the department of transportation. Those persons who reside  
23 outside of area A or area B but who elect to test their vehicle or are  
24 required to test their vehicle pursuant to this section and who comply with  
25 the minimum emissions standards pursuant to this section or are otherwise  
26 exempt under this section shall remit a compliance form, as prescribed by the  
27 department of transportation, and proof of compliance issued at an official  
28 emissions inspection station to the department of transportation along with  
29 the appropriate fees. The department of transportation shall then issue the  
30 person an air quality compliance sticker which shall be placed on the vehicle  
31 as prescribed by rule adopted by the department of transportation. The  
32 registering officer or the department of transportation shall collect an air  
33 quality compliance fee of twenty-five cents. The registering officer or the  
34 department of transportation shall deposit, pursuant to sections 35-146 and  
35 35-147, the air quality compliance fee in the state highway fund established  
36 by section 28-6991. The department of transportation shall deposit, pursuant  
37 to sections 35-146 and 35-147, any emissions inspection fee in the emissions  
38 inspection fund. The provisions of this subsection do not apply to those  
39 vehicles registered pursuant to title 28, chapter 7, article 7 or 8, the sale  
40 of vehicles between motor vehicle dealers or vehicles leased to a person  
41 residing outside of area A or area B by a leasing company whose place of  
42 business is in area A or area B.

43 F. The director shall adopt minimum emissions standards pursuant to  
44 section 49-447 with which the various classes of vehicles shall be required  
45 to comply as follows:

1           1. For the purpose of determining compliance with minimum emissions  
2 standards in area B:

3           (a) A motor vehicle manufactured in or before the 1980 model year,  
4 other than a diesel powered vehicle, shall be required to take and pass the  
5 curb idle test condition. A diesel powered vehicle is subject to only a  
6 loaded test condition. The conditioning mode ~~shall~~, at the option of the  
7 vehicle owner or owner's agent, ~~shall~~ be administered only after the vehicle  
8 has failed the curb idle test condition. ~~Upon~~ ~~ON~~ completion of such  
9 conditioning mode, a vehicle that has failed the curb idle test condition may  
10 be retested in the curb idle test condition. If the vehicle passes such  
11 retest, it shall be deemed in compliance with minimum emissions standards  
12 unless the vehicle fails the tampering inspection pursuant to subsection G of  
13 this section or the liquid fuel leak inspection pursuant to subsection Z of  
14 this section.

15           (b) A motor vehicle manufactured in or after the 1981 model year,  
16 other than a diesel powered vehicle, shall be required to take and pass the  
17 curb idle test condition and the loaded test condition or an onboard  
18 diagnostic check as may be required pursuant to title II of the clean air  
19 act.

20           2. For purposes of determining compliance with minimum emissions  
21 standards and functional tests in area A:

22           (a) Motor vehicles manufactured in or after model year 1981 with a  
23 gross vehicle weight rating of eighty-five hundred pounds or less, other than  
24 diesel powered vehicles, shall be required to take and pass a transient  
25 loaded emissions test or an onboard diagnostic check as may be required  
26 pursuant to title II of the clean air act. ~~ON REQUEST OF AN OWNER OR~~  
27 ~~OPERATOR OF A VEHICLE, A VEHICLE THAT WOULD OTHERWISE BE SUBJECT TO AN~~  
28 ~~ONBOARD DIAGNOSTIC CHECK SHALL BE PERMITTED TO TAKE A TAILPIPE EMISSIONS TEST~~  
29 ~~WITHOUT RECEIVING THE ONBOARD DIAGNOSTIC CHECK. ANY VEHICLE THAT RECEIVES AN~~  
30 ~~ONBOARD DIAGNOSTIC CHECK THAT RESULTS IN A FINDING THAT THE VEHICLE IS NOT~~  
31 ~~READY FOR TESTING OR THAT RESULTS IN A DIAGNOSTIC TROUBLE CODE IMMEDIATELY~~  
32 ~~SHALL BE SUBJECT TO A TAILPIPE EMISSIONS TEST TO DETERMINE THE ACTUAL LEVEL~~  
33 ~~OF VEHICLE EMISSIONS.~~

34           (b) Motor vehicles other than those prescribed by subdivision (a) of  
35 this paragraph and other than diesel powered vehicles shall be required to  
36 take and pass a steady state loaded test and a curb idle emissions test.

37           (c) A diesel powered motor vehicle applying for registration or  
38 reregistration in area A shall be required to take and pass an annual  
39 emissions test conducted at an official emissions inspection station or a  
40 fleet emissions inspection station as follows:

41           (i) A loaded, transient or any other form of test as provided for in  
42 rules adopted by the director for vehicles with a gross vehicle weight rating  
43 of eight thousand five hundred pounds or less.

1 (ii) A test that conforms with the society for automotive engineers  
2 standard J1667 for vehicles with a gross vehicle weight rating of more than  
3 eight thousand five hundred pounds.

4 (d) Motor vehicles by specific class or model year shall be required  
5 to take and pass any of the following tests:

6 (i) An evaporative system purge test.

7 (ii) An evaporative system integrity test.

8 (e) An onboard diagnostic check ~~as~~ may be required pursuant to title  
9 II of the clean air act.

10 3. A motorcycle in area A or any constant four wheel drive vehicle  
11 shall be required to take and pass a curb idle emissions test or an onboard  
12 diagnostic check as required pursuant to title II of the clean air act.

13 4. Fleet operators in area B must comply with this section, except  
14 that used vehicles sold by a motor vehicle dealer who is a fleet operator and  
15 who has been issued a permit under section 49-546 shall be tested as follows:

16 (a) A motor vehicle manufactured in or before the 1980 model year  
17 shall take and pass only the curb idle test condition, except that a diesel  
18 powered vehicle is subject to only a loaded test condition.

19 (b) A motor vehicle manufactured in or after the 1981 model year shall  
20 take and pass the curb idle test condition and a twenty-five hundred  
21 revolutions per minute unloaded test condition.

22 5. Vehicles owned or operated by the United States, this state or a  
23 political subdivision of this state shall comply with this subsection without  
24 regard to whether those vehicles are required to be registered in this state,  
25 except that alternative fuel vehicles of a school district that is located in  
26 area A shall be required to take and pass the curb idle test condition and  
27 the loaded test condition.

28 6. Fleet operators in area A shall comply with this section, except  
29 that used vehicles sold by a motor vehicle dealer who is a fleet operator and  
30 who has been issued a permit pursuant to section 49-546 for purposes of  
31 determining compliance with minimum emission standards in area A shall be  
32 tested as follows:

33 (a) A motor vehicle manufactured in or before the 1980 model year  
34 shall take and pass the curb idle test condition, except that a diesel  
35 powered vehicle is subject to only a loaded test condition.

36 (b) A motor vehicle manufactured in or after the 1981 model year shall  
37 take and pass the curb idle test condition and a two thousand five hundred  
38 revolutions per minute unloaded test condition.

39 7. Beginning on January 1, 2004 and except for any registered owner or  
40 lessee of a fleet of less than twenty-five vehicles, a diesel powered motor  
41 vehicle with a gross vehicle weight of more than twenty-six thousand pounds  
42 and for which gross weight fees are paid pursuant to title 28, chapter 15,  
43 article 2 in area A shall not be allowed to operate in area A unless it was  
44 manufactured in or after the 1988 model year or is powered by an engine that  
45 is certified to meet or surpass emissions standards contained in 40 Code of

1 Federal Regulations section 86.088-11. This paragraph does not apply to  
2 vehicles that are registered pursuant to title 28, chapter 7, article 7 or 8.

3 8. Beginning on January 1, 2006 for any registered owner or lessee of  
4 a fleet of less than twenty-five vehicles, a diesel powered motor vehicle  
5 with a gross vehicle weight of more than twenty-six thousand pounds and for  
6 which gross weight fees are paid pursuant to title 28, chapter 15, article 2  
7 in area A shall not be allowed to operate in area A unless it was  
8 manufactured in or after the 1988 model year or is powered by an engine that  
9 is certified to meet or surpass emissions standards contained in 40 Code of  
10 Federal Regulations section 86.088-11. This paragraph does not apply to  
11 vehicles that are registered pursuant to title 28, chapter 7, article 7 or 8.

12 G. In addition to an emissions inspection, a vehicle is subject to a  
13 tampering inspection on at least a biennial basis if the vehicle was  
14 manufactured after the 1974 model year and the vehicle is not subject to a  
15 transient loaded emissions test or an onboard diagnostic check as required  
16 pursuant to title II of the clean air act. The director shall adopt vehicle  
17 configuration guidelines for the tampering inspection which shall be based on  
18 the original configuration of the vehicle when manufactured. The tampering  
19 inspection shall consist of the following:

20 1. A visual check to determine the presence of properly installed  
21 catalytic converters.

22 2. An examination to determine the presence of an operational air  
23 pump.

24 3. In area A, if the vehicle was manufactured after the 1974 model  
25 year and is not subject to a transient loaded emissions test or an onboard  
26 diagnostic check as required pursuant to title II of the clean air act, a  
27 visual inspection for the presence or malfunction of the positive crankcase  
28 ventilation system and the evaporative control system.

29 H. Vehicles required to be inspected shall undergo a functional test  
30 of the gas cap to determine if the cap holds pressure within limits  
31 prescribed by the director, except for any vehicle that is subject to an  
32 evaporative system integrity test.

33 I. Motor vehicles failing the initial or subsequent test are not  
34 subject to a penalty fee for late registration renewal if the original  
35 testing was accomplished before the expiration date and if the registration  
36 renewal is received by the motor vehicle division or the county assessor  
37 within thirty days of the original test.

38 J. The director may adopt rules for purposes of implementation,  
39 administration, regulation and enforcement of the provisions of this article  
40 including:

41 1. The submission of records relating to the emissions inspection of  
42 vehicles inspected by another jurisdiction in accordance with another  
43 inspection law and the acceptance of such inspection for compliance with the  
44 provisions of this article.

1           2. The exemption from inspection of:

2           (a) A motor vehicle manufactured in or before the 1966 model year.

3           (b) New vehicles originally registered at the time of initial retail  
4 sale and titling in this state pursuant to section 28-2153 or 28-2154.

5           (c) Vehicles registered pursuant to title 28, chapter 7, article 7  
6 or 8.

7           (d) New vehicles before the sixth registration year after initial  
8 purchase or lease.

9           (e) Vehicles which will not be available within the state during the  
10 ninety days prior to registration.

11          (f) Golf carts.

12          (g) Electrically-powered vehicles.

13          (h) Vehicles with an engine displacement of less than ninety cubic  
14 centimeters.

15          (i) The sale of vehicles between motor vehicle dealers.

16          (j) Vehicles leased to a person residing outside of area A or area B  
17 by a leasing company whose place of business is in area A or area B.

18          (k) Collectible vehicles.

19          (l) Motorcycles in area B.

20          3. Compiling and maintaining records of emissions test results after  
21 servicing.

22          4. A procedure which shall allow the vehicle service and repair  
23 industry to compare the calibration accuracy of its emissions testing  
24 equipment with the department's calibration standards.

25          5. Training requirements for automotive repair personnel using  
26 emissions measuring equipment whose calibration accuracy has been compared  
27 with the department's calibration standards.

28          6. Any other rule which may be required to accomplish the provisions  
29 of this article.

30          K. The director ~~shall~~, after consultation with automobile  
31 manufacturers and the vehicle service and repair industry, ~~shall~~ establish by  
32 rule a definition of "low emissions tune-up" for motor vehicles subject to  
33 inspection under this article. The definition shall specify repair  
34 procedures which, when implemented, will reduce vehicle emissions.

35          L. The director shall adopt rules which specify that the estimated  
36 retail cost of all recommended maintenance and repairs shall not exceed the  
37 amounts prescribed in this subsection, except that if a vehicle fails a  
38 tampering inspection there is no limit on the cost of recommended maintenance  
39 and repairs. The director shall issue a certificate of waiver for a vehicle  
40 which has failed reinspection, if the director has determined that all  
41 recommended maintenance and repairs have been performed. If, after  
42 reinspection, the director has determined that the vehicle is in compliance  
43 with minimum emissions standards or that all recommended maintenance and  
44 repairs for compliance with minimum emissions standards have been performed,  
45 but that tampering discovered at a tampering inspection has not been

1 repaired, the director may issue a certificate of waiver if the owner of the  
2 vehicle provides to the director a written statement from an automobile parts  
3 or repair business that an emissions control device which is necessary to  
4 repair the tampering is not available and cannot be obtained from any usual  
5 source of supply before the vehicle's current registration expires. Rules  
6 adopted by the director for the purpose of establishing the estimated retail  
7 cost of all recommended maintenance and repairs pursuant to this subsection  
8 shall specify that:

9 1. In area A the cost shall not exceed:  
10 (a) Five hundred dollars for a diesel powered vehicle with a gross  
11 weight in excess of twenty-six thousand pounds.  
12 (b) Five hundred dollars for a diesel powered vehicle with tandem  
13 axles.

14 (c) For a vehicle other than a diesel powered vehicle with a gross  
15 weight in excess of twenty-six thousand pounds and other than a diesel  
16 powered vehicle with tandem axles:

17 (i) Two hundred dollars for such a vehicle manufactured in or before  
18 the 1974 model year.

19 (ii) Three hundred dollars for such a vehicle manufactured in the 1975  
20 through 1979 model years.

21 (iii) Four hundred fifty dollars for such a vehicle manufactured in or  
22 after the 1980 model year.

23 2. In area B the cost shall not exceed:

24 (a) Three hundred dollars for a diesel powered vehicle with a gross  
25 weight in excess of twenty-six thousand pounds.

26 (b) Three hundred dollars for a diesel powered vehicle with tandem  
27 axles.

28 3. For a vehicle other than a diesel powered vehicle with a gross  
29 weight in excess of twenty-six thousand pounds and other than a diesel  
30 powered vehicle with tandem axles:

31 (a) Fifty dollars for such a vehicle manufactured in or before the  
32 1974 model year.

33 (b) Two hundred dollars for such a vehicle manufactured in the 1975  
34 through 1979 model years.

35 (c) Three hundred dollars for such a vehicle manufactured in or after  
36 the 1980 model year.

37 M. Each person whose vehicle has failed an emissions inspection shall  
38 be provided a list of those general recommended tune-up procedures for  
39 vehicles which are designed to reduce vehicle emissions levels. The list  
40 shall include the following notice: "This test is the result of federal  
41 law. You may wish to contact your representative in the United States  
42 Congress."

43 N. Notwithstanding any other provisions of this article, the director  
44 may adopt rules allowing exemptions from the requirement that all vehicles  
45 must meet the minimum standards for registration or reregistration.



0. The director of environmental quality shall establish, in cooperation with the assistant director for the motor vehicle division of the department of transportation:

1. An adequate method for identifying bona fide residents residing outside of area A or area B to ensure that such residents are exempt from compliance with the inspection program established by this article and rules adopted under this article.

2. A written notice that shall accompany the vehicle registration application forms that are sent to vehicle owners pursuant to section 28-2151 and that shall accompany or be included as part of the vehicle emissions test results that are provided to vehicle owners at the time of the vehicle emissions test. This written notice shall describe at least the following:

(a) The restriction of the waiver program to one time per vehicle and a brief description of the implications of this limit.

(b) The availability and a brief description of the vehicle repair and retrofit program established pursuant to section 49-474.03.

(c) Notice that many vehicles carry extended warranties for vehicle emissions systems, and those warranties are described in the vehicle's owner's manual or other literature.

(d) A description of the catalytic converter replacement program established pursuant to section 49-474.03.

P. Notwithstanding any other law, if area A or area B is reclassified as an attainment area, emissions testing conducted pursuant to this article shall continue for vehicles registered inside that reclassified area, vehicles owned by a person who is subject to section 15-1444 or 15-1627 and vehicles registered outside of that reclassified area but used to commute to the driver's principal place of employment located within that reclassified area.

Q. A fleet operator who is issued a permit pursuant to section 49-546 may electronically transmit emissions inspection data to the department of transportation pursuant to rules adopted by the director of the department of transportation in consultation with the director of environmental quality.

R. The director shall prohibit a certificate of waiver pursuant to subsection L of this section for any vehicle which has failed inspection in area A due to the catalytic converter system.

S. The director shall establish provisions for rapid testing of certain vehicles and to allow fleet operators, singly or in combination, to contract directly for vehicle emissions testing.

T. Each vehicle emissions control station in area A shall have a sign posted to be visible to persons who are having their vehicles tested. This sign shall state that enhanced testing procedures are a direct result of federal law.

U. The initial adoption of rules pursuant to this section shall be deemed emergency rules pursuant to section 41-1026.

1           V. The director of environmental quality and the director of the  
2 department of transportation shall implement a system to exchange information  
3 relating to the waiver program, including information relating to vehicle  
4 emissions test results and vehicle registration information.

5           W. Any person who sells a vehicle that has been issued a certificate  
6 of waiver pursuant to this section after January 1, 1997 and who knows that a  
7 certificate of waiver has been issued after January 1, 1997 for that vehicle  
8 shall disclose to the buyer before completion of the sale that a certificate  
9 of waiver has been issued for that vehicle.

10          X. Vehicles that fail the emissions test at emission levels higher  
11 than twice the standard established for that vehicle class by the department  
12 pursuant to section 49-447 are not eligible for a certificate of waiver  
13 pursuant to this section unless the vehicle is repaired sufficiently to  
14 achieve an emissions level below twice the standard for that class of  
15 vehicle.

16          Y. If an insurer notifies the department of transportation of the  
17 cancellation or nonrenewal of collectible vehicle or classic automobile  
18 insurance coverage for a collectible vehicle, the department of  
19 transportation shall cancel the registration of the vehicle and the vehicle's  
20 exemption from emissions testing pursuant to this section unless evidence of  
21 coverage is presented to the department of transportation within sixty days.

22          Z. In addition to an emissions inspection, a vehicle is subject to a  
23 liquid fuel leak inspection on at least a biennial basis if the vehicle was  
24 manufactured after the 1974 model year and is not a diesel vehicle. The  
25 director shall adopt rules prescribing procedures and standards for the  
26 liquid fuel leak inspection.

27          AA. For the purposes of this section, "collectible vehicle" means a  
28 vehicle that complies with both of the following:

29           1. Either:

30           (a) Bears a model year date of original manufacture that is at least  
31 fifteen years old.

32           (b) Is of unique or rare design, of limited production and an object  
33 of curiosity.

34           2. Meets both of the following criteria:

35           (a) Is maintained primarily for use in car club activities,  
36 exhibitions, parades or other functions of public interest or for a private  
37 collection and is used only infrequently for other purposes.

38           (b) Has a collectible vehicle or classic automobile insurance coverage  
39 that restricts the collectible vehicle mileage or use, or both, and requires  
40 the owner to have another vehicle for personal use.